

2009 Update

for Basic Legal Research Workbook (3d ed. 2007)

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This document contains replacements for several pages in *Basic Legal Research Workbook* (3d ed. 2007). The updated pages reflect changes to print volumes or electronic services that have occurred since the third edition was published and are current through **July 20, 2009**. Except as noted below, the answers are not affected by these changes, and the answer keys in the Teacher's Manual have not been updated.

Although we attempted to update questions and instructions as necessary, users of the text should note that additional changes may occur after the date of this update. Please follow the time limits for each question, the troubleshooting hints in the workbook's General Instructions, and your own common sense in answering the questions. If what you find does not seem to fit with the research questions, ask for help.

If you find questions that require additional changes, please let us know. You can reach Amy Sloan at asloan@ubalt.edu, and you can reach Steve Schwinn at sschwinn@jmls.edu.

Below you will find a page-by-page description of the changes. Replacement pages follow.

Page 32: In Section IA, the encyclopedia search terms for **Problem Sets G and H only** have been updated to reflect changes to the print volumes of the encyclopedias. Additionally, instead of referring students to specific search terms, **Problem Set C** now refers students to a specific topic and section. **NOTE TO PROFESSORS:** This update changes the answers for Problem Sets C and H to Question IA1, which asks for the topic name and section number the students locate. It also changes the answer for Problem Set C to Question IB, which asks for information from the pocket part. If you need an updated answer key, please contact either of the authors.

Page 34: In Section IA, Legal Encyclopedia Questions, the second question for **Problem Set C only** has been changed to reflect changes in the content of Am. Jur. 2d. **NOTE TO PROFESSORS:** This update changes the answer for Problem Set C to Question IA3, which asks students to provide some information from the relevant section of Am. Jur. 2d. If you need an updated answer key, please contact either of the authors.

Pages 46-47: On page 46, instructions for accessing the Am. Jur. 2d table of contents and the entries leading students to the section they need to answer the questions have been revised to reflect changes in Westlaw. On page 47, instructions for accessing A.L.R. Annotations on Westlaw have been updated. The text of the footnote on page 47 has also been revised to reflect LexisNexis's current coverage of A.L.R. Annotations.

Pages 72-74: The names of and instructions for accessing the electronic search services covered here have been updated to reflect changes made by the providers. Some additional facts have been added to the fact pattern at the top of page 72 as necessary for new KeySearch questions. The instructions for identifying the relevant case for Question IA2 on page 73 have been revised to reflect the correction of an error in Westlaw. The KeySearch material on page 74 has been revised because of changes in Westlaw. **NOTE TO PROFESSORS:** The update to the KeySearch questions changes the answers to Question 1B1, which asks for a case name, and Question 1B2, which asks for information from the case. If you need an updated answer key, please contact either of the authors.

Page 76: The instructions for accessing the search screen for U.S. Supreme Court cases have been updated to reflect changes to FindLaw's interface. **NOTE TO ALL USERS:** Beginning in September, 2009, the FindLaw search engine has experienced sporadic outages. The questions do not work when the search engine is not functioning properly. If the search either yields no results or generates an error message, it may be because the search engine is not functioning properly.

Page 107: In Section IIA3, the Annotation question for **Problem Set B only** has been updated to reflect the content of the statutory annotations. **NOTE TO PROFESSORS:** This update changes the answer for Problem Set B to Question IIA3, which asks for the title of a document that appears in the statutory annotations. If you need an updated answer key, please contact either of the authors.

Pages 118-120: In Section II on page 118, the LexisNexis Statutory Research Question for **Problem Sets L, M, N, and O** has been changed because of an amendment to the statute. In Section IIA on page 119, the Search terms for **Problem Sets L, M, N, and O** have also been changed to lead students to the section of the statute that answers the revised question. In Section IIB on page 120, the Shepard's Question has been updated to ask for information from the entry for the section students locate. **NOTE TO PROFESSORS:** These updates change the answers for Problem Sets L, M, N, and O to Question IIA1, which asks for the title and section number, Question IIA2, which asks for information from the statute, and Question IIB, which asks for information from the Shepard's entry. If you need an updated answer key, please contact either of the authors.

Page 140: The instructions for accessing the LexisNexis Source containing the Toxic Substances Control Act Legislative History have been updated to reflect changes to the LexisNexis Source names.

Page 158: Question IIB has been updated to ask for the definition of an "imminent danger."

Page 165: In Question IA3, the name of the CA-CS database has been updated to "California Cases."

Page 169: The instructions for accessing the LexisNexis Source containing opinions from the United States Court of Appeals for the Seventh Circuit have been updated to reflect changes to the LexisNexis Source names.

Page 171: The instructions in Question IIB2 have been revised to reflect changes in the LexisNexis search interface.

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They are helpful for obtaining general background information on your research topic and for locating limited citations to primary legal authority.

A. Locate the legal encyclopedia for your problem set. For Problem Sets A, B, C, E, F, I, and J, go directly to the main encyclopedia volumes. Use the citation provided in your problem set to locate the section of the encyclopedia containing the answers to the questions below. For Problem Sets D, G, H, K, L, M, N, and O, use the subject index to locate the section of the encyclopedia containing the answers to the questions below. Be sure to use the search terms provided in your problem set.

Encyclopedia and Search Terms or Citation

Problem Set A	Problem Set B
Am. Jur. 2d	CJS
Citation: Consumer and Borrower Protection § 270	Citation: Conspiracy § 113

Problem Set C	Problem Set D
Am. Jur. 2d	CJS
Citation: Divorce and Separation § 851	Search Terms: Bail and Recognizance; Excessive bail; generally

Problem Set E	Problem Set F
Am. Jur. 2d	CJS
Citation: Freedom of Information Acts § 54	Citation: Elections § 38

Problem Set G	Problem Set H
Am. Jur. 2d	CJS
Search Terms: Libel and Slander; New York Times v. Sullivan	Search Terms: Incompetent or Insane Persons; Commitment proceedings; generally (Hint: The index refers to a range of sections. Refer only to the first section to answer the questions.)

Problem Set I	Problem Set J
Am. Jur. 2d	CJS
Citation: Products Liability § 4	Citation: Pardon and Parole § 84

Problem Set C	Problem Set D
1. In some jurisdictions, when do courts give a preference to the mother in custody disputes?	1. Why does the constitutional provision against excessive bail exist?
2. In many jurisdictions, there is no prima facie presumption in favor of the mother. In those jurisdictions, what consideration are the parents to receive for custody of a minor child?	2. When is bail deemed excessive?

Problem Set E	Problem Set F
1. Under the Freedom of Information Act ("FOIA") each agency must make records available to any person who requests them if the request is made properly. In making any record available to a person, an agency must provide the record in what form or format?	1. Why did a provision disenfranchising persons convicted of crimes involving moral turpitude violate the Equal Protection Clause?
2. When is an agency <u>not</u> required to make reasonable efforts to search for records in electronic form or format?	2. On what basis may a state distinguish among convicted felons, disenfranchising only some of them?

Problem Set G	Problem Set H
1. Under <i>New York Times v. Sullivan</i> , what must a public official prove with clear and convincing evidence to recover damages for a defamatory falsehood relating to his or her official conduct?	1. What are the goals of civil commitment or confinement?
2. What does <i>New York Times</i> malice require?	2. What are the two legal foundations or justifications for the exercise of authority to confine the mentally ill?

Problem Set I	Problem Set J
1. What is the unique issue posed in products liability cases?	1. What "touchstone of due process" will require that the state provide counsel for an indigent parolee in certain cases?
2. Why is the existence of a defect crucial?	2. In some jurisdictions the constitution or statutes do not provide for counsel in all parole revocation cases. How must the decision as to the need for counsel be made in those jurisdictions?

Problem Set K	Problem Set L
1. When may an inmate who practices religious doctrines be found guilty of violating prison rules?	1. What state tort remedies are available for damages suffered as a result of an illegal police search or seizure?
2. What two types of religious material may be regulated?	2. Under what circumstances may a plaintiff recover actual damages for the wrongful invasion of the plaintiff's home by officers?

Alan was convicted in Maryland; therefore, you need to research Maryland law regarding felony-murder. Because this is an area of law with which you may not be familiar, researching secondary sources would be a good way to begin. The secondary sources you research for this assignment will not provide enough information to answer your client's question. You would need to research primary authority in Maryland, and possibly authorities from other jurisdictions, to answer the question. This assignment illustrates how secondary sources can be used to obtain background information on a subject and to locate references to primary authority.

For this assignment, you will research secondary sources electronically. Electronic research tools can be very useful in locating secondary sources. Am. Jur. 2d, C.J.S., A.L.R. Annotations, Restatements of the law, many legal periodicals, and some treatises are available electronically. Although electronic tools can be useful for researching secondary sources, they also have some limitations. For example, not all periodicals and only a limited number of treatises are available electronically.

The usefulness of various secondary sources is the same whether you locate them using print or electronic research. Therefore, this assignment will not repeat all the information about secondary sources that appears in Exercise 3-1. Instead, this assignment focuses on electronic search techniques. You can locate secondary sources electronically in a variety of ways. Three common search techniques are: (1) retrieving a document from its citation; (2) browsing a document's table of contents; and (3) executing a word search. Exercise 1-2 covers retrieving authorities from their citations. This assignment illustrates table of contents and word searching.

I. Westlaw

A. Searching a Legal Encyclopedia Using the Table of Contents

To obtain an overview of the law of felony-murder, you might begin your research with a legal encyclopedia. Both the Am. Jur. 2d and C.J.S. legal encyclopedias are available electronically in Westlaw. Am. Jur. 2d is also available electronically in LexisNexis.

The Am. Jur. 2d table of contents is accessible from the introductory Westlaw page. Under the "Secondary Sources" section, you should find a link to the American Jurisprudence (Am Jur) table of contents. You can also access it by clicking on the "Site Map" link near the top of the screen. Under the "Find a Document" section, locate and click on the link to "Table of Contents." Click on the plus sign to the left of "General Secondary Sources & Forms" to expand the list of sources. Then click on "American Jurisprudence 2d" to open the table of contents.

From the main table of contents, one subject that might help with your research into the client matter is "Homicide." Expand the list under that topic, and then drill down through each of the following choices:

- Nature of Act or Omission Causing Death
- Unlawful Acts
- In General
- Felony-murder

1. Review the section of Am. Jur. 2d that you retrieved. What was the common law rule (for felony-murder)?
2. Provide the name of a Maryland case that supports your answer to Question A1, above. (Hint: Clicking on the link for the footnote number in the text will take you directly to the footnote supporting the textual statement. Use the reporter abbreviations to identify a case decided by a Maryland (Md.) court.)

B. Locating A.L.R. Annotations Using Word Searches

You decide to continue your research on felony–murder in the A.L.R. Annotations in Westlaw.¹ You are especially interested in researching how courts determine what felonies are inherently or foreseeably dangerous to human life—a requirement for a conviction for felony–murder. A.L.R. Annotations are a good place to look for this information.

To answer the questions below, you need to locate the ALR database. This database is accessible in a variety of ways. One way to find it is from the introductory Westlaw page. Under the “Secondary Sources” section, you should find a link to the ALR database. You can also access the database from the main Westlaw Directory. To access the database this way, click on the “Directory” link near the top of the screen. Immediately below the heading for “Treatises, CLEs, and Other Practice Materials,” a link to “ALR” appears. Click on that link to access the ALR database.

Execute the following search:

ti(“felony murder doctrine”)

(Hints: Be sure to enter the search exactly as it appears above, including the quotation marks and parentheses. The “ti” designation limits the search to documents with the phrase “felony murder doctrine” in the title. More information on electronic search techniques appears in Exercise 9-1.)

1. Provide the title of the Annotation that seems most relevant to the client matter.
2. Click on the link to open this Annotation. Provide the name of the author of the Annotation.

¹ All A.L.R. Annotations except those in the first series are also available in LexisNexis.

Alan's defense attorney at trial failed to call witnesses who would have testified that Alan was not involved in the killing, failed to object to certain evidence, and also represented one of Alan's co-defendants in his separate trial. Mrs. Douglas also recently learned that Alan's attorney had been suspended from practicing law at the time of Alan's trial for failure to pay his bar dues.

You are concerned that Alan's attorney was ineffective, thus denying Alan his right to counsel under the Sixth Amendment to the U.S. Constitution.

You intend to file your appeal in the Maryland courts; therefore, you need to research Maryland law regarding ineffective assistance of counsel. For this assignment, you will conduct your research using electronic resources. You can research cases electronically in a variety of ways. Three common search techniques are: (1) retrieving a case from its citation; (2) searching by subject area; and (3) executing a word search. Exercise 1-2, on Introduction to Electronic Research, illustrates how to retrieve a case from its citation. This assignment focuses on searching by subject area and word searching.

When you retrieve cases electronically, often you will see symbols next to the case citations, including red or yellow triangles in Westlaw and red stop signs or blue circles in LexisNexis. You will learn about these symbols when you learn about a research tool called a citator. In this Workbook, citators are covered in Chapter 5, Research with Shepard's Citations and Other Citators.

I. Westlaw

A. Searching by Subject Using Topics and Key Numbers

In Westlaw, you can search by topic and key number much as you would in a print digest. Because West topics and key numbers are proprietary editorial features, you can conduct West topic and key number searches only in Westlaw. In LexisNexis, you can search by LexisNexis topics and headnotes.

You can search through the West digest topics by selecting "West Key Number Digest Outline (Custom Digest)" from the "Site Map" screen. You can also access digest topics and key numbers from a case on point, much as you would in print. You can find cases on point in a variety of ways, including through secondary sources. Assume that you found the citation to the following case in a legal encyclopedia:

State v. Borchardt, 914 A.2d 1126 (Md. 2007)

Use the "Find" function to retrieve this case, and review the headnotes at the beginning of the opinion. Each topic and key number subdivision is assigned a number in Westlaw. Next to each topic name and key number subdivision, you will see a number with a hyperlink. For example, you will see several headnotes listing the topic "Criminal Law," with a series of subdivisions. One key number subdivision addresses "Deficient Representation in General." The link next to the key number is labeled 110k1882, which refers to topic number 110 (Criminal Law) and key number 1882 (Deficient Representation in General).

Click on the "110k1882" link in any headnote with that precise key number. (Hint: Be sure to follow the link for key number 110k1882 to complete the questions below.) This will bring up a Custom Digest search screen that you can use to search for other cases containing

the same topic and key number. Restrict your search to “State” cases, and use the pull-down menu to limit your search to State cases from Maryland. You can search solely by key number, or you can add terms to your search. Type the following search phrase exactly as it appears below in the box labeled “Add search terms and/or connectors (optional)”:

“sixth amendment”

(Hint: Be sure to use the quotation marks when you enter the search.)

Do not add a date restriction. Click on the “Search” button to execute the search. The search retrieves a list of case summaries similar to those you would see in the print digest if you looked up the topic and key number.

1. Review the case summaries your search retrieved. How many cases did the search retrieve? (Hint: Provide the number of cases, not the number of headnotes. A case may be summarized more than once in the list if it contains more than one headnote under the topic and key number.)
2. Click on the link to a 1995 case decided by the Maryland Court of Special Appeals that addresses whether the Sixth Amendment requires a perfect defense. Provide the name of the case.
3. Review the decision. What is the two-prong test for ineffective assistance of counsel set forth in *Strickland v. Washington*?

B. Searching by Subject Using the “KeySearch” Function

Although this question directs you to use the “KeySearch” function in Westlaw, you can also search for cases by subject in LexisNexis using LexisNexis topics and headnotes, as noted above. The LexisNexis “Guided Search Form” function also has an “Area of Law” category that allows limited subject searching.

The “KeySearch” function allows you to search by subject. To access KeySearch, click on the Key Numbers link near the top of the screen, and then choose KeySearch. (Hint: You can also access KeySearch through the Site Map.)

You can select a subject by following the links under a subject category, or you can search for a subject by entering search terms in the box to the left. From the list of KeySearch topics, follow the links below to bring up the search screen:

Criminal Justice
Counsel
Qualifications of Counsel

Restrict your search to “Cases with West Headnotes,” and check the first box under that heading. Because the federal constitution applies both to state and federal courts, researching both state and federal case law may help expand your research. Use the pull-down menu to limit your search to “Maryland Federal & State” cases. Do *not* add search terms. Click on the “Search” button to execute the search.

Instead of retrieving a list of case summaries, this search retrieves a list of cases with several relevant key numbers. KeySearch is tied to the West topics and key numbers. It searches more broadly, however, than the Custom Digest function does because of the way it combines multiple topics and key numbers with unique search terms in one search.

Browse the search results to locate a 1992 case from the Maryland Court of Appeals concerning ineffective assistance of counsel, and answer the questions below.

1. Provide the name of the case.

2. Review the case. Why did the court reject a per se rule declaring that a criminal defense conducted by a lawyer suspended from the practice of law violates the constitutional guarantee to counsel?

Mr. Douglas's trial attorneys failed to investigate and to present evidence of Mr. Douglas's dysfunctional and troubled background at his trial and sentencing. This mitigating evidence almost certainly would have resulted in a lower sentence for Mr. Douglas. You recall a relatively recent United States Supreme Court case dealing with precisely this issue and decide to look it up.

To locate the case, you decide to use FindLaw, a free legal research service:

<http://www.findlaw.com/casecode>

In the "Popular Federal Resources" section, click on the link to "US Supreme Court." Choose the tab for "Full-Text Search," and enter the following search in the search box:

"ineffective assistance" and "troubled background"

(Hint: Be sure to use the quotation marks when you enter the search.)

Browse the search results to locate a 2003 case that discusses whether counsel is ineffective when counsel fails to investigate or present mitigating evidence at a sentencing phase of a capital case. Provide the name of the case.

Problem Set L	Problem Set M	Problem Set N	Problem Set O
Trade Secrets Definitions, Uniform Trade Secrets Act	Trade Secrets Definitions	Trade Secrets Definitions, Uniform Trade Secrets Act	Trade Secrets Definitions

- Define the term for your problem set. Be sure to check the pocket part and soft cover supplements, if any, to update your research.

Term

Problem Sets A, B, C & D	Provide the definition of “label.”
Problem Sets E, F, G & H	Provide the definition of “debt” or “consumer debt.”
Problem Sets I, J & K	Provide the definition of “family.”
Problem Sets L, M, N & O	Provide the definition of “improper means.”

- Review the annotations to the definitions section. Answer the annotation question for your problem set. (Hint: The answer may be in the pocket part or soft cover supplement, if any.)

Annotation

Problem Set A	Problem Set B	Problem Set C	Problem Set D
Provide the subject name and section numbers of a reference to a legal encyclopedia (C.J.S.).	Provide the title of an American Law Reports (ALR) annotation.	Provide the name of a 1966 case regarding a disclaimer of liability.	Provide the title of a 1982 law review article discussing this code section.

II. LexisNexis

Use LexisNexis to answer the LexisNexis federal statutory question for your problem set.

LexisNexis Federal Statutory Question

Problem Set A	Problem Set B	Problem Set C	Problem Set D
Your client, Ace Pest Control, would like to compete for government contracts to provide pest control services to federal agencies. The company's owner knows that federal agencies use integrated pest management techniques and needs to learn more about this form of pest control. What is integrated pest management?			

Problem Set E	Problem Set F	Problem Set G	Problem Set H
Your client, Jason Beltrand, has multiple delinquent accounts that have been turned over to a collection agency for collection. Mr. Beltrand disputes one of these debts. When Mr. Beltrand sends a payment to the collection agency, he wants to make sure it is not applied to the disputed account. Is the collection agency permitted to apply his payment to the disputed debt?			

Problem Set I	Problem Set J	Problem Set K
Your client, Anna Nguyen, has filed a complaint with the Department of Housing and Urban Development against a rental company for denying her housing. She is concerned that the rental company will somehow interfere with her ability to obtain alternative housing because she is pursuing a remedy for the housing violation. You have assured her that this is not permissible and would, in fact, constitute a separate violation of the fair housing law. You offered to show her the provision of federal law that protects her, and she has asked to see it. What specific action is the rental company prohibited to take in response to Ms. Nguyen's efforts to take advantage of her fair housing rights?		

Problem Set L	Problem Set M	Problem Set N	Problem Set O
Your client, Ocular Inc., was the victim of industrial espionage, and the organization that conducted the espionage has been identified. The organization used sophisticated eavesdropping equipment to conduct remote surveillance on Ocular's business operations and then sold the information to Ocular's competitors. The conduct at issue took place outside the U.S., so you are not sure whether U.S. law applies. When does the federal statute prohibiting industrial espionage apply to conduct by an organization that occurs outside the U.S.?			

A. Word Searching in LexisNexis²

One way to locate statutes is by executing word searches. To conduct a word search, you must first select a Source (or database) in which to execute the search. To research statutes from an individual jurisdiction, you would search in the Source containing the jurisdiction's code.

For this part of the assignment, you need to research federal statutes, so you would search the Source that contains U.S.C.S. From the LexisNexis Search screen, you should see a directory of sources. (Hint: If the directory of sources does not automatically appear when you sign on, click on the "Search" tab in the top left corner, and then choose the "Sources" option just below the "Search" tab.)

² Although this section directs you to search in LexisNexis, you can also execute word searches in Westlaw.

Under the heading for “Federal Legal — U.S.” you will see a source entitled “United States Code Service — Titles 1 through 50.” Click on that link to bring up the search screen. Choose the options to search using Terms and Connectors and Full-text of source documents. Enter the search for your problem set. Execute the search, and answer the questions below.

Search

Problem Sets A, B, C and D	integrated pest management and federal agency
Problem Sets E, F, G and H	multiple debts
Problem Sets I, J and K	interfere /s intimidate /s threaten
Problem Sets L, M, N and O	trade secret and organization /s outside /s United States

1. Browse the search results to locate a statutory section that answers the LexisNexis federal statutory question for your problem set. Provide the title and section number. (Hint: Look for a section in the same title you used when searching the Table of Contents in Westlaw. When you view the search results, you may want to choose the option to “Hide Hits” to make the list easier to read.)
2. Briefly answer the LexisNexis federal statutory question for your problem set based on the section you located. Be sure to explain your answer.

B. Shepardizing Statutes

You can check a citation electronically with Shepard’s in LexisNexis. Shepardize the statute you found for Question A1, above, and answer the Shepard’s Question for your problem set. (Hint: If Shepard’s finds more than one document for the citation you entered, select the document that is an “exact match.”)

Shepard’s Question

Problem Sets A, B, C and D	Provide the name of a New Jersey case that cites the section you located.
Problem Sets E, F, G and H	Provide the name of a Ninth Circuit case that cites the section you located.

Problem Sets I, J, and K	Provide the name of a U.S. Supreme Court case that cites the section you located.
Problem Sets L, M, N and O	Provide the name of a law review article published in the Georgia State University Law Review (Ga. St. U.L. Rev.) that cites the section you located.

III. Statutory Research on the Internet

The federal code and most state codes are available in unannotated form on the Internet. Depending on the source you use, you may be able to browse the code's table of contents, execute a key word search, or search for Acts by popular name.

A. Federal Statutory Research

An issue of ongoing debate in American society concerns appropriate uses of the flag. Although the United States Supreme Court has invalidated statutes that punish flag burning, Congress has enacted a statute addressing respect for the flag. To locate the statute, access the U.S. House of Representatives' web site containing the United States Code.

<http://uscode.house.gov>

Choose the option to search the U.S. Code, and enter the following terms in the box for Search Word(s):

respect w/3 flag

1. Provide the title and section number where this statute is codified.
2. What does the statute say about the use of the flag for advertising purposes?
3. After the text of the statute, you will find historical notes about the statute. According to the notes, has this section ever been amended?

Although this question directs you to use LexisNexis, Westlaw also contains databases with compiled legislative histories.

A. You decide to continue your research into Client Matter 2 concerning the Toxic Substances Control Act (“TSCA”). From the Source directory in LexisNexis, select the following sources:

Federal Legal — U.S.
Legislative History Materials
Toxic Substances Control Act Legislative History

This will bring up a list of research options. Choose the option to perform a word search.

To find out whether trace elements or materials were considered in legislative history documents other than the report you retrieved for Question IID, above, execute the following search:

trace /2 element or material

Review the search results. Trace elements or materials were mentioned in one document other than the conference report. Click on the link to the document, and use the “Term” function to locate the search term within the document. What did studies of ambient conditions substantiate?

B. Go back to the screen listing TSCA Research Options. Choose the option to “Review List of Documents in TSCA Legislative History.” Review the list of documents. Click on the link for the document containing Agency Testimony from NIH and other agencies on March 3 and 10, 1975.

Review the document. After some introductory remarks by the presiding senator, the document contains the testimony of three witnesses. Provide their names.

Using the *Code of Federal Regulations* (CFR) database, search for regulations concerning “employee rescue activities”.

- A.** Provide the C.F.R. title and section number of the regulation concerning employee rescue activities in the context of OSHA inspections, citations, and proposed penalties.
- B.** OSHA’s policy regarding employee rescue activities applies to situations in which an employee undertakes activity with respect to an individual in imminent danger. For purposes of this policy, what is the definition of “imminent danger”?

III. Searching the *Federal Register* in LexisNexis

Although this question directs you to use LexisNexis, you can also search the *Federal Register* in Westlaw.

Using the “Get a Document” function in LexisNexis, retrieve the text of the regulation you located for Question IIA, above, and answer the following questions.

- A.** Scroll to the end of the regulation, and review its “History.” Locate a *Federal Register* reference for the regulation dated December 27, 1994. Provide the citation (as it appears in LexisNexis) for the *Federal Register* reference.
- B.** Click on the link to the *Federal Register* reference for the regulation, and answer the questions below.
1. Briefly explain how the section was amended. (Hint: To answer this question, describe the general nature of the amendment. Do not provide the text of the amendment.)
 2. Provide the name of the contact person at the agency for further information about the agency action. (Hint: Go to the beginning of the document to find this information.)
 3. According to the Supplementary Information section of the *Federal Register* entry, what is it not OSHA’s policy to interfere with or regulate?

If you were researching the law of all 50 states, ALLSTATES might be an appropriate database for your search. If you were researching only California state law, however, CA-CS would be a better choice because it would limit the search results to authority from California state courts.

3. Assume that you decided to change the scope of your search to include cases from the California state courts and federal cases from the Ninth Circuit, but not decisions from other states. From the Westlaw Directory, select the following database menu options:

U.S. State Materials
Other U.S. States
California
Cases

From here, you need to select the specific database you want to search. To determine a database's coverage, click on the "i" surrounded by a circle. (In LexisNexis, the "i" inside a box will give you the same information.) Compare the coverage of the databases for "9th Circuit Federal & State Cases" (CTA9-ALL), "State & Federal Courts" (CA-CS-ALL), and "California Cases" (CA-CS) by clicking on the "i" next to each database identifier.

Which of these databases would be the best choice for your research? Be sure to explain your answer.

B. Constructing and Executing a Search — Boolean Search Techniques

After you select a database, the next steps are constructing and executing a search. You will obtain better search results with effective use of Boolean search commands. The following questions illustrate the use of connectors and commands for grouping terms (parentheses and search phrases).

1. Connectors

The connectors you use to connect search terms can greatly affect the search results.

For questions a. and b., below, assume that you need to continue your research into crimes associated with illegal drug use among students at school. Now, however, you are researching all federal law.

- a. From the Westlaw Directory, access the database for "All Federal Cases" (ALLFEDS). Execute this search:

abortion and (roe w/3 wade)

How many documents does the search retrieve?

2. To narrow the search results without executing a new query, choose the option to “Locate in Result.” To limit the search results to cases involving waiting periods, enter “waiting period” in the search box. (Hint: Be sure to enclose the search terms in quotation marks.)

How many documents does the “Locate” search retrieve?

Westlaw searched through the initial search results to find cases that contain the terms in the “Locate” search.

II. LexisNexis

In LexisNexis, you must select an appropriate database. LexisNexis calls its databases “Sources.” Then you must create and execute an effective Boolean search just as you do in Westlaw. The process of selecting a source and the techniques for effective Boolean searching are the same in LexisNexis as they are in Westlaw. Therefore, those components of this assignment will not be repeated here. Instead, this assignment will illustrate LexisNexis functions for limiting a search to document components and refining search results.

A. Limiting the Search with Document Segments

In LexisNexis, individual components of a document are called “segments.” Using the function to “Restrict by Document Segment” is similar to using “Fields” in Westlaw.

Assume you need to research cases in which Judge Posner, of the United States Court of Appeals for the Seventh Circuit, concurred.

1. Follow the Source menu options below to reach the search screen:

Federal Legal — U.S.
Federal Courts by Circuit
7th Circuit — US Court of Appeals, District & Bankruptcy
Cases Combined

Execute this search:

2. To target cases discussing waiting periods, delete the original search phrase from the FOCUS Terms box near the top of the screen, and type the following phrase: waiting period. (Note that LexisNexis will treat the terms as a phrase without quotation marks.) In the Search Within box, select Original Results. Choosing this option will cause FOCUS to execute the search within the documents retrieved by the original search. Click “Go.”

How many cases does the FOCUS search retrieve?